IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1776 of 1998
With
SPECIAL CIVIL APPLICATION Nos.2177 of 1998
to
SPECIAL CIVIL APPLICATION No.2240 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes.

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2. To be referred to the Reporter or not? No.

3. Whether Their Lordships wish to see the fair copy of the judgement? No.

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.

5. Whether it is to be circulated to the Civil Judge? No.

GUJARAT AGRICULUTRAL UNIVERSITY

Versus

ALL GUJARAT KAMDAR KARMACHARI UNION

Appearance:
MR SA DESAI for Petitioner
MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE S.D.PANDIT
Date of decision: 29/08/98

CAV COMMON JUDGEMENT

Rule in all the petitions. This matter is taken up for final hearing with the consent of both the sides.

Mr. T.R. Mishra, learned advocate for the respondent in all the matters waives service of notice of rule.

2. This Special Civil Applications are filed by the Gujarat Agricultural University, to challenge the award passed in Consolidated Reference No.311 of 1997 on 20.8.1997. The said reference has arose on account of 64 workmen of the petitioner lodging separate complaints under section 33 A against the present petitioner. The petitioner in all these petitions is one and the same and the claim of the petitioner as well as the claim of the respondent in all these petitions is one and the same. Therefore, all these petitions are being disposed of by this common judgment.

3. The respondent had lodged a complaint under section 33-A of the Industrial Disputes Act, 1947 by contending that already a reference was pending between the workmen and the petitioner. During the pendency of the said reference, the petitioner had changed the condition of the services. It is their claim that as per the settlement arrived under section 2(p) of the Act on 22.8.1980, the workman-daily wager was to have only one weekly off. This was going on from the year 1980. They had already raised an industrial dispute bearing No.463/91 seeking the regularization of their services. But all of a sudden the petitioner had issued a Circular dtd.30.5.91 and ordered that the daily wagers will not be provided work on every 2nd and 4th Saturday of every month and they will also not be provided any work during the holidays declared by the University in the Academic Year as well as during the Divali Vacation. The said Circular issued by the petitioner was the subject matter of the complaint made by the present respondent.

4. It was the contention before the Learned Labour Court of the present petitioner that the holidays were to be given as per the University Rules and there was no change in the service condition of the workmen. But, in any case, it could not be said to be illegal or improper action of the University.

5. The Learned Labour Court had given an opportunity of being heard to both the sides and then by his reasoned order, he came to the conclusion that in view of settlement under section 2(p), as a matter of fact, the petitioner-university has changed the service condition of the respondent before him, and therefore he said that the workmen were entitled to get the wages for the days which are more than one weekly off. Similarly, the denial of wages from them 11 days during Divali Vacation

was also illegal. He held that the said action of the University in giving the holidays was contrary to the terms of settlement dtd.22.8.80 arrived under section 2(p) of the Industrial Disputes Act.

6. The learned advocate for the petitioner Mr. S.A. Desai, vehemently urged before me that the Labour Court had not come to any definite conclusion that there was interference with the service condition of the respondent. In support of his contention, he drew my attention to the observations made by the Learned Labour Court in first 10 lines of para.8 of his order. But when the order is to be considered, it must be considered as a whole and some few stray sentences in the order could not be read for coming to a particular conclusion. If the whole paragraph 8 is read alongwith the paragraphs nos.11,12 and 15, then it would be quite clear that the Learned Labour Court has come to a positive conclusion that there was change in the service condition. This conclusion he has recorded after considering the oral and documentary evidence produced before him by the parties. The said conclusion arrived at by him could not be said either perverse or grossly errorneous resulting into miscarriage of justice.

7. The respondents are workers-daily wagers who are to lookafter the cattles, to do the work of cleaning as well as giving fodder to the cattles. The work which they are carrying is to be attended and done on every day. The material on record also shows that prior to 1991 they were doing this work continuously. Therefore, in these circumstances, the Learned Labour Court was quite justified in arriving at the conclusion to which he has arrived at. The said conclusion recorded by him could not be interfered by exercising the powers under Article 226 and 227 of the Constitution of India. I, therefore, hold that the present petitions deserves to be dismissed but taking into consideration that the industrial dispute raised by the petitioner is pending for more than seven years, I will only direct that the Learned Labour Court should give top priority to the said industrial dispute raised by the respondent and disposed of the same as early as possible, and before the end of this year.

8. Thus all the petitions stand dismissed. But in the circumstances of the case, parties are directed to bear their respective costs. Rules are discharged.

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